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OF COUNSEL

**November 23, 1998**

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SACRAMENTO CA 95833  
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FAX (916) 442-7700  
www.BMPC.com

Ms. Alva Smith  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4830

Dear Ms. Smith:

This letter responds to your letter received October 30, 1998 directed to Don and Sharon Henley in the above-referenced matter under review. On November 13, 1998, you extended the 15-day period in which to respond to November 25, 1998.

I now have reviewed the complaint filed by John Dendahi naming Don and Sharon Henley, among others, and respectfully request that you take no further action against Mr. and Mrs. Henley in this matter. The reasons are set forth below.

On or before September 22, 1998 Don and Sharon Henley decided to make a campaign contribution to the Udall For Us All Committee, FEC #C00329896, in support of Tom Udall's election to the United States Congress. This decision was communicated to Mr. and Mrs. Henley's assistant who contacted the Udall For Us All campaign finance director. The finance director informed the Henley's assistant that the campaign had primary election debt outstanding, and therefore, both primary and general election contributions were permissible at that time.

Instructions were then sent to Mr. and Mrs. Henley's business manager to have four contribution checks issued for signature. On September 22, 1998, Sharon Henley contributed \$1,000 designated for the primary election and \$1,000 designated for the general election. Don Henley contributed \$1,000 designated for the primary election, and \$1,000 designated to the general election. Copies of all four checks are attached with the designation information.

If necessary to support the contention that the Henleys and their agents believed they were complying with the Federal Election Campaign Act and its contribution limits, we can provide an affidavit from the parties attesting to the above facts.

Letter to Ms. Alva Smith  
November 23, 1998  
Page 2

If despite these facts, this case is assigned to staff, the Office of the General Council should recommend to the Federal Election Commission that there is no reason to believe that the complaint sets forth a possible violation of the Federal Election Act by Don and Sharon Henley in making their contributions to the Udall For Us All Committee.

Contributions such as the Henleys' primary election contributions, designated in writing for a particular election, but made after that election, may be made to the extent that the contribution does not exceed net debts outstanding from the prior election. 11 CFR Section 110.1(b)(3)(i). The Henleys, through their agents, made a good faith effort to ascertain that net debts outstanding existed.

The Federal Election Commission has adopted a regulation setting forth the computation of net debts outstanding. The regulation presumes the computation will be done by the treasurer of the candidate's authorized political committee. The data required for the computation would only be available to a treasurer and not to a donor. The regulation further requires the candidate or the candidate's authorized political committee to remedy, by refund or redesignation, any contribution that exceeds net debts outstanding. 11 CFR 110.1(b)(3).

Therefore, logic compels the conclusion that donors such as the Henleys can only make inquiry of the recipient and must rely, in good faith, on the representations made by the agents of the committee.

Please contact me if you have any questions or require further information in this matter.

Very truly yours,

*Colleen C. McAndrews*

Colleen C. McAndrews

CCM:sa  
015658112398

cc: Don and Sharon Henley

DO NOT CASH THIS CHECK  
HOLD AT AN

ESS YOU CAN SEE THE WORD CHECK PROTE  
E TOWARD LIGHT TO VERIFY SAFETY

SHARON HEALEY

Check No. 1349

08-021/1119

NORTHERN TRUST BANK OF TEXAS  
DALLAS, TEXAS

ONE THOUSAND DOLLARS EXACTLY

Pay to the  
order of

UDALL FOR US ALL  
740 ST. MICHAEL'S DRIVE, SU A  
SANTA FE, NM 87501

Valid after 100 days

*Sharon Healey*

GENERAL

WARNING

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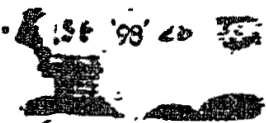
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TO MLPT & S INC. 08-03-8  
ABSENT OF ENDORSEMENT  
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ENTRY 09/28/98  
POCKET = 26  
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**NORTHERN TRUST BANK OF TEXAS**  
**DALLAS, TEXAS**

## ONE THOUSAND DOLLARS EXACTLY

Pay to the  
order of

UDALL FOR US ALL  
740 ST. MICHAEL'S DRIVE, SU A  
SANTA FE, NM 87501

### Wet after 100 days

PRIMARY

Shawn Henley



# WARNING

0425

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**BUFFALO WHITE (aka Buffalo White)**

**SECRET**

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DON HENLEY

Check No. 5013

89-982/1119  
NORTHERN TRUST BANK OF TEXAS  
16475 DALLAS PARKWAY  
DALLAS, TX 75247-9878

ONE THOUSAND DOLLARS EXACTLY

Pay to the  
order of

UDALL FOR US ALL  
740 ST. MICHAEL'S DRIVE, SU A  
SANTA FE, NM 87501

VOID AFTER 180 DAYS

VOID AFTER 180 DAYS

PRIMARY

*Don Henley*

YOU

FOR DEPOSIT ONLY  
TO MLPI & S INC. 0456  
ARSENT OF ENDORSEMENT  
NORWEST NATIONAL BANK  
9440263018

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PHX, AZ 85023 (R60) 1239498

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DON HENLEY

09-22-98

Check No. 5016

88-922/1119

NORTHERN TRUST BANK OF TEXAS  
16475 DALLAS PARKWAY  
DALLAS, TX 75287-9878

ONE THOUSAND DOLLARS EXACTLY

Pay to the  
order of

UDALL FOR US ALL  
740 ST. MICHAEL'S DRIVE, SU A  
SANTA FE, NM 87501

Valid after 180 days

*Don Henley*

GENERAL

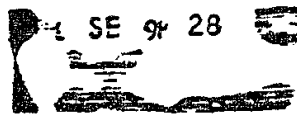
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